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Forty-fourth session

SUMMARY RECORD OF THE 1146th MEETING

Held at Headquarters, New York,
on Thursday, 9 April 1992, at 10 a.m.

Chairman: Mr. POCAR

later: Mr. AGUILAR (Vice-Chairman)

later: Mr. POCAR (Chairman)

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The meeting was called to order at 10.25 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (continued)

Third periodic report of Yugoslavia (continued) (CCPR/C/52/Add.9)

1. At the invitation of the Chairman, Mr. Mitić and Mr. Strugal (Yugoslavia) took places at the Committee table.

Constitutional and legal framework within which the Covenant is implemented, state of emergency and self-determination (articles 1 (1), 2 and 4) (section I of the list of issues) (continued)

Right to life, liberty and security of the person, treatment of prisoners and other persons deprived of their liberty and right to a fair trial (articles 6, 7, 9, 10, 11 and 14 of the Covenant) (continued)

2. Mr. MITIĆ (Yugoslavia) said that, while the Yugoslav army had committed crimes against humanitarian law, it had not carried out any summary executions. Unfortunately, because of the military conflict, no statistical data were currently available. A federal commission was investigating crimes committed by the Yugoslav army, and Yugoslavia would send the relevant information to the Committee as soon as it became available.

3. With respect to the abolition of capital punishment in Slovenia, mentioned in paragraph 45 of the report, he said that he did not know why such information had been included in the report. Perhaps the author had wished to point out that Slovenian criminal legislation differed from federal law, which permitted the death penalty. The Yugoslav Government was taking measures to abolish or limit the application of capital punishment. Proposals had been made to authorize capital punishment only for the gravest forms of criminal acts perpetrated during a state of war or immediate danger of war, and to limit its application in other circumstances by requiring a panel of seven judges to be unanimous in passing the death sentence. However, it would not be possible to amend the national legislation until a new parliament was elected.

4. Before it had been amended, the Yugoslav Constitution had given the police the authority to detain individuals for 24 hours. That provision had been abolished. Under article 16 of the Constitution of the Republic of Serbia, a person suspected of having committed a criminal offence could be detained and held in confinement on the basis of an order issued by a competent court of law, only when such detention was indispensable for the conduct of criminal proceedings or for reasons of public safety. The length of detention must be kept to the shortest possible time. Detention ordered by the court of first instance could not exceed three months from the date of arrest, and it could be extended by a decision of the Supreme Court for

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another three months. If, upon the expiry of the second three-month period, no charge had yet been filed, the accused would be released.

5. The independence of the judiciary had been strengthened by amendments to the federal Constitution and also by the new constitutional law in the various republics. The practice of re-electing judges had been abolished, and judges were elected to permanent posts. Moreover, judges of the lower courts were no longer elected locally. All judges were elected by the parliament of the Republic.

6. The Yugoslav Government did not seek to evade its responsibility for controlling the actions of the armed forces. Under the Constitution, the President of Yugoslavia bore the main responsibility for the armed forces. The Yugoslav Government was endeavouring to prevent genocide and other violations of humanitarian law and to punish those responsible for such crimes. The competent bodies were investigating all members of the armed forces who had been accused of such violations.

7. Miss CHANET said that, while Mr. Mitić had stated that there had been no cases of extrajudicial executions, he had acknowledged that the civilian population had been subjected to atrocities, and that there had been cases of pillage, rape and murder. The Yugoslav delegation should indicate what acts had been committed by the army and paramilitary forces, particularly in the light of the provisions of article 6 of the Covenant.

8. The Yugoslav delegation had informed the Committee that 30 people had been detained for alleged human rights violations. That figure seemed quite low and seemed to indicate that a considerable number of persons had not been punished. She wondered what had prevented a full-scale investigation of all persons suspected of such violations.

9. A number of non-governmental organizations, the International Committee of the Red Cross (ICRC) and Amnesty International had visited a number of prison camps, and there had been reports that elderly people and women were among the detainees. Moreover, some detainees had allegedly been subjected to ill-treatment and torture, and a number of them had lost their eyesight. The Yugoslav delegation should state whether or not it considered such information to be accurate, and should also indicate what measures the Yugoslav Government intended to take to prevent acts of torture.

10. Mr. MITIĆ (Yugoslavia) said that, with respect to torture and the right to life, Yugoslavia had ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The full responsibility for human rights violations committed by members of the army and paramilitary units lay not with the army itself but with the individuals who had perpetrated such crimes. It was almost impossible for the army to prevent human rights violations by members of the armed forces, reservists and volunteers. There had been a great deal of propaganda against the Yugoslav

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army, and he cautioned the Committee not to rely on such one-sided information. The Committee should attach greater importance to the impartial reports prepared by the observer missions of the European Community and the United Nations.

11. All the prison camps had been visited by ICRC representatives, and he encouraged the Committee to consult reports prepared by ICRC and a number of intergovernmental bodies, including United Nations bodies.

12. Mr. SADI said that, instead of dismissing the allegations made by Amnesty International out of hand, the Yugoslav Government should investigate them and inform the Committee whether or not they had any basis in fact.

13. Mr. MITIĆ (Yugoslavia) said that the Yugoslav Government had not rejected the allegations made by Amnesty International, and it would investigate all cases of human rights violations mentioned in the Amnesty International report.

Freedom of movement and expulsion of aliens, right to privacy, freedom of religion, expression, assembly and association, and right to participate in the conduct of public affairs (articles 12, 13, 17, 18, 19, 20, 21, 22 and 25 of the Covenant) (section III of the list of issues)

Non-discrimination, equality of the sexes and rights of persons belonging to minorities (articles 2 (1), 3 and 27 of the Covenant) (section IV of the list of issues)

14. The CHAIRMAN read out section III of the list of issues concerning the third periodic report of Yugoslavia, namely: (a) information on any special limitations and restrictions on the exercise of freedom of movement, the right to privacy, freedom of religion, expression, assembly and association, and the right to participate in the conduct of public affairs in the light of the current situation in Yugoslavia, and the compatibility of such limitations and restrictions, if any, with the relevant provisions of the Covenant; and (b) information on controls exercised under the current circumstances on freedom of the press and the mass media, including possible censorship.

15. He read out section IV of the list of issues, namely: (a) clarification of the concrete measures that had been adopted to eliminate the possibility of repression and discrimination based on ethnic, religious or political affiliation, which reportedly were permitted in the legal system of certain republics; and (b) information concerning the situation of ethnic, religious and linguistic minorities in the various republics, and measures taken by the Government to promote the enjoyment of their rights under article 27 of the Covenant.

16. Mr. MITIĆ (Yugoslavia) said, with reference to section III (a) of the list of issues, that there were no restrictions on movement under the Yugoslav provisions in force, although the armed conflict had inevitably caused some rights and freedoms to be limited or, at least, threatened. Those limitations had resulted from the abuse of the legal provisions by members of the military or paramilitary, or by individuals acting on their own authority, and were not officially authorized.

17. Nearly all the constituent republics had improved their legislation on the rights covered under section III. The new provisions in the constitutions of the republics were more liberal and placed no restriction on the freedom of movement. For obvious reasons, the movement of persons had been restricted during the armed conflict in areas of direct hostilities.

18. An obstacle to such movement had been created, however, by the new international frontiers between the republics. The Yugoslav Government had not formally recognized the independence of those States but it was prepared to accept realities and believed the problem should be settled through negotiations with the republics which had become independent.

19. The right to privacy was guaranteed in almost all the new constitutions of the republics in accordance with European standards. Articles 18 to 21 of the Constitution of the Republic of Serbia contained provisions guaranteeing the right to privacy, the security of personal correspondence, the secrecy of personal data and the inviolability of the home.

20. Freedom of religion was more liberally protected in all the new constitutions of the republics. Where former constitutions had not explicitly permitted charitable work by religious communities, the right of such communities to conduct charitable activities and publicity work were now expressly guaranteed. Previous restrictions on the exercise of religion within the army had been abolished by new provisions on the rights of members of the Yugoslav armed forces. Religious communities had always enjoyed access to the print media, but not to television and radio, and such access had also been guaranteed under the new constitutions. Church members had become very visible, campaigning on television and radio and, where previously there had been a very rigid division between State and church, all the current political parties were seeking the support of religious leaders, giving the role of the church a possibly exaggerated status. There had even been efforts by some religious leaders to conduct political activities but such abuses of their position did not constitute a basis for limiting their rights.

21. Yugoslavia had three main religious communities - Orthodox and Catholic Christians and Muslims - and many smaller communities, particularly in the province of Vojvodina. There were isolated instances of intolerance among members of those communities, which could only be solved through democratic respect for the rights and freedoms of all.

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22. All the republics had adopted new legislation on the freedom of assembly and association, which accorded fully with European standards and contained no special limitations. There was one federal law on the formation of parties and associations at the federal level: a minimum of 100 people was required to establish a party.

23. With regard to the right to participate in the conduct of public affairs, he said that the legislative situation in Yugoslavia was fully in line with all European constitutions and legislations. Only in Kosovo had any problems arisen in that respect, since the majority of the Albanian population did not participate in public affairs in the province. That lack of participation was due, however, not to any limitation of their right but to a deliberate boycott policy. In consequence, it had been necessary to suspend the parliament of Kosovo and it was now up to the Albanians to take part in elections for the local administrative bodies, to be held later in 1992. Failure to do so would only further harm the interests of the Albanian population itself.

24. Turning to freedom of expression, he said that there was no censorship of the mass media and any obstruction of the dissemination of information was prohibited, unless it could be established that such information was intended to undermine the established constitutional order, to foment violence or racial hatred or to serve other unconstitutional ends.

25. There were problems with public-funded, or State, media, causing complaints that they exercised a monopoly in certain areas and were used by the ruling parties for propaganda purposes. In some republics, in order to overcome that problem, it had been decided that the editorial board and management of such organs would be elected by parliament. While no such problems arose with privately owned media, of which there were a considerable number in Yugoslavia, the issue of the use of State media by the ruling party was an intricate one and had also caused problems in other countries, such as Austria.

26. He said that the issue addressed in section IV (a) had been covered in his introductory statement. He was unable to report any positive developments over the last few years in the area of government measures to protect minorities.

27. Mr. HERNDL, referring to section III, said that the issue of trade union rights, related to article 22 of the Covenant, was also covered by International Labour Organisation (ILO) Convention No. 87 of 1948. ILO had informed the Committee of complaints brought by the Union of Independent Trade Unions of Kosovo, against the Yugoslav Government in February 1991, alleging violations of labour rights, namely, the refusal by Yugoslavia to register Kosovo unions or to admit those unions to the collective bargaining process and the unfair dismissal of union members on the grounds of industrial action and their refusal to join Serbian trade unions. Although those complaints

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were currently being reviewed by an ILO committee of experts, he wondered whether the delegation could furnish the Committee with further information.

28. With reference to section IV, he acknowledged Yugoslavia's contributions to international efforts to protect the rights of minorities but regretted that, at the national level, the Government's record appeared to be much less impressive. Referring to the delegation's statement that the failure by the Albanian minority to participate in public affairs was due to its own decision to boycott the organs of public administration, he wondered what steps the Yugoslav Government was taking to secure the cooperation of that minority. Such actions as the suspension of the administration, the closure of the Albanian-language schools and university, the closure of the only Albanian-language newspaper and of the Albanian radio and television stations and other measures against Albanian cultural institutions, such as the replacement of Albanian place-names with Serbian names, cast doubt on whether Albanian citizens enjoyed equality with other nationalities in Yugoslavia. He wondered what measures the Government was taking to resolve those issues.

29. Finally, with reference to the issue of the State monopoly of television and radio in Austria, mentioned by the delegation, he said that the matter had been extensively discussed by the Committee during its forty-third session when the second periodic report of Austria had been considered and that it was currently under review in Austria.

30. Mr. SADI asked, with reference to the delegate's statement earlier about discrimination against "Croats, Serbs and Muslims", whether Muslims were considered an ethnic minority in Yugoslavia, and not a religious community. As formulated, the statement had given the impression that there might be discrimination on religious grounds. While he conceded that, in practice, there would always be a certain measure of religious intolerance and discrimination on religious grounds, he wondered what steps the Yugoslav Government was taking to reduce tension between religious communities in the country.

31. Mr. Aguilar, Vice-Chairman, took the Chair.

32. Miss CHANET, referring to article 12, paragraph 2, of the Covenant, concerning the right to emigrate said that the Yugoslav delegation should explain the procedures to be followed by a Yugoslav national who wished to leave the country. In particular, she would appreciate information on the conditions for obtaining a passport whether an exit visa or an invitation from abroad were required, and whether the same requirements existed in all the republics.

33. Mr. FODOR said that during the inter-ethnic war, with the occupation of some parts of Croatia by insurgent forces and the Serbian army, nearly 20,000 Croats and Hungarians residing in Croatia had left their homes and farms and had sought refuge in Hungary. Serbian officials in the occupied areas,

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claiming that the refugees had abandoned their properties, had prevented them from returning and had settled Serbians in their homes. Details should be provided on the measures adopted by the Serbian authorities to prevent further violations of the rights of displaced people and to find solutions in cases where homes had been taken from their rightful owners. It would also be interesting to learn what the Yugoslav Government's policy was with regard to people who had sought temporary refuge abroad, and whether measures were envisaged to facilitate their return.

34. With regard to article 24 of the Covenant, the reporting State should indicate what measures had been adopted to ensure the adequate protection of children in areas affected by military operations.

35. According to his information, the proportion of minorities conscripted into the Serbian army was higher than their percentage in the general population; if discrimination of that nature did exist, he wished to know what remedies were available.

36. He would be grateful for clarification of reports that the draft law on education in the Republic of Serbia envisaged further restrictions on teaching in minority languages, to the point where the use of Hungarian in the schools would virtually disappear.

37. In general, he would appreciate additional information on the intentions behind the endeavours of the Serbian authorities to limit the rights of minorities.

38. Mr. MÜLLERSON said that the Yugoslav representative might have misunderstood him. He did not support self-determination for minorities; on the contrary, the right to secession was not guaranteed under international law, although the international community might recognize such a right under exceptional circumstances.

39. The protection of minorities depended to a great extent on the inter-ethnic situation. He would be grateful if the Yugoslav delegation could clarify a report published in the previous day's edition of The New York Times, indicating that the Serbian army had ordered air strikes on several Croatian towns in retaliation for an assault by Croatian militiamen on Serbian airbases. He failed to understand how such an attack, if indeed it had occurred, could be in conformity with international law. It would also be useful to learn whether there were any minorities in the Autonomous Province of Vojvodina.

40. Mr. WENNERGREN said that, according to some reports, drug-trafficking networks had been established in Yugoslavia, with the proceeds being used to arm combatants in the civil war. If that was true, he would be grateful for information on any measures adopted by the Government to combat drug trafficking.

41. The Chairman resumed the Chair.

42. Mr. MITIĆ (Yugoslavia), replying to the questions raised by Mr. Herndl, concerning trade union rights in Kosovo, said that, while he did not have information on all aspects of the problem, he assumed that the International Labour Organisation had adequate machinery to deal with it. In Yugoslavia, freedom of association was guaranteed by both federal law and the laws of the republics; all trade unions were free to operate. With regard to the Union of Independent Trade Unions of Kosovo, which consisted solely of ethnic Albanians, it had begun a dialogue with the Serbian Government concerning the issue of the dismissal of ethnic-Albanian workers; however, the said organization had attempted to lump all the cases together, whereas the Serbian authorities had insisted upon treating each case separately. Many of the ethnic Albanians had ignored the judicial remedies for wrongful dismissal. For practical reasons, it was impossible to adopt a blanket approach to the dismissals, since in some cases, the workers had been reinstated in their posts, while in other cases, they had been replaced.

43. With regard to the alleged inconsistencies in the Yugoslav Government's attitude towards minorities at the international level and internally, there was a misunderstanding about the situation in Kosovo, where the Albanian minority did not recognize the authority of the State. In response, official circles in the Serbian and Yugoslav Governments declined to make any efforts on behalf of the Albanians. The Committee must clarify its own position in that regard. The Albanian minority in Kosovo had insisted on the right to self-determination and had illegally proclaimed the Republic of Kosovo, which the Yugoslav and Serbian Governments, as well as the Republic of Slovenia, had refused to recognize. While the Yugoslav and Serbian Governments had no intention of ignoring the internationally guaranteed rights of minorities, it was necessary to specify what those rights were.

44. The issue of education had also been discussed between the Serbian Government and representatives of the 14 alternative parties in Kosovo. The Albanian minority had objected to certain school programmes on the ground that not enough importance had been attached to Albanian history and culture; however, experts had been of the view that the programmes were well balanced.

45. Although the Serbian Government had proposed negotiations with a view to solving all the outstanding problems, representatives of the Albanian minority had stated that they would participate only if the Serbian Government recognized the Republic of Kosovo, which the Serbian Government was unwilling to do.

46. As to the question of name changes, there was a trend throughout the country towards changing the names adopted under communist rule; no specific measures had been envisaged against Albanian institutions in Kosovo, although some abuses might have occurred.

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47. The number of pupils in school had decreased slightly because of the State's financial position. Previously, education in the underdeveloped regions of Yugoslavia, including Bosnia - Herzegovina, Montenegro, Macedonia and Kosovo, had been financed partially through a special fund - 50 per cent of which had been allocated to Kosovo - and partially through a federal budget grant. Those resources were no longer available; the Serbian Government had been forced to rationalize the school system, and a number of primary and secondary schools had been closed.

48. It should be noted that there were approximately 2 million ethnic Albanians in Kosovo, and 25,000 students of Albanian origin attended university. In comparison, in the Republic of Albania, there were 19,000 university students out of a total population of 3 million.

49. With regard to the Albanian-language television station and the newspaper which had been forcibly shut down, the newspaper had been closed because it had been financed by the Government, but there were 24 other Albanian-language newspapers in Kosovo. The television station was broadcasting several hours a day, and there were also Albanian-language broadcasts on Belgrade television.

50. Turning to the question raised by Mr. Sadi, he said that Muslims were one of the six Yugoslav nations and had been recognized as such 30 years earlier. Muslims as a nation were different from Muslims as a religious community; there were more than 4 million people of the Muslim faith in the country. The Muslim nation was centred in Bosnia; its members spoke Serbo-Croatian.

51. On the question of relations between different ethnic and religious groups, he said that the Yugoslav Government had made great efforts in recent years to create an atmosphere of tolerance and cooperation, at a time when the inter-ethnic situation was deteriorating, and had never sought to discriminate against any religion or religious community. The legal position was quite clear, with all religions and ethnic groups being equal before the law. He recalled that some years ago the Committee had censured Yugoslavia for the severity of its laws against ethnic intolerance and pointed out that the current situation appeared to vindicate that rigorous approach.

52. In reply to Miss Chanet's question concerning the freedom to leave the country under article 12, paragraph 2, of the Covenant, he said that Yugoslavia was a country with open frontiers and had sought to conclude bilateral treaties with all States willing to abolish visa formalities. There were no specific obstacles to obtaining a passport and nearly all citizens had one. Under the law, passports could be refused because of obligations relating to families or the courts, or on grounds of national security. Previously, the authorities had not needed to give reasons for refusing passports on grounds of national security, but a ruling by the Constitutional Court now required them to do so. During the armed conflict, the Government had imposed restrictions on the freedom of movement of male citizens between

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the ages of 18 and 60 eligible for military service, who required a certificate from the authorities in order to leave the country.

53. Replying to Mr. Fodor's question concerning the problem of people who had left the country in order to flee the armed conflict or avoid military service, he said that the Government wanted all refugees to return home and was collaborating with the Office of the United Nations High Commissioner for Refugees, the International Red Cross, and other non-governmental organizations in providing assistance. Discussions were continuing as to whether those who had left in order to escape military service should be prosecuted on their return. Two opposing proposals were before parliament, one calling for an amnesty and the other advocating prosecution. The matter remained open and was for parliament to decide, although he pointed out that those who had remained in the country and had been prosecuted for evasion of military service had been punished by fines rather than prison sentences.

54. With regard to the problems of displaced persons, particularly those whose homes had been seized by others, he said that everyone had the right to return to his home. The territory in question, Krajina in Croatia, had been assigned special status and was to be placed under the control of the United Nations peace-keeping troops, which would provide a guarantee of safe return. Needless to say, many people had not yet returned because of the continuing armed conflict. The Government would strive to help all those who so desired to return home, whether from abroad or from other republics.

55. With regard to article 24 of the Covenant, he said that legal provisions existed to protect children during armed conflicts and Yugoslavia was also bound by the provisions of various international conventions. Although efforts had been made to evacuate children and provide them with temporary homes, many children had fallen victim to the armed conflict and a high percentage of refugees were children.

56. With regard to the question of conscription, an investigation had been conducted and had produced no evidence to substantiate claims that a disproportionate number of conscripts had been recruited from among the Hungarian minority. With regard to the Serbian draft law on education, he said that there were no plans whatsoever to abolish the teaching of Hungarian in secondary schools. He stressed that the Hungarian language was widely used in all areas of public life. He felt that the representatives of the Hungarian minority were exaggerating their problems and that claims of discrimination were unfounded. The new Serbian Constitution recognized Vojvodina as an autonomous province and the rights of all minorities would continue to be respected.

57. It was not true that the Serbian authorities had sought to limit minority rights. The Government was aware of its obligations under international treaties and also realized that a normal community could not develop unless it

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satisfied the aspirations of all sections of the population by guaranteeing the rights of ethnic groups under national and international law.

58. He agreed that inter-ethnic relations were of crucial importance to the human rights situation and that the deterioration in those relations in the country had created problems for the implementation of human rights, especially in the case of minorities.

59. He said that, according to the Yugoslav news agency, the Government had denied newspaper reports that bombing raids had recently been carried out against the towns of Siroki Brijeg and Citluk in Bosnia-Herzegovina.

60. In reply to questions concerning drug trafficking and arms dealing in the country, he said that the Government was cooperating with Interpol in an effort to combat those activities. However, many of the activities were taking place outside the present territory of Yugoslavia and were beyond the Government's control.

The meeting rose at 1.10 p.m.